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Programme budget for the biennium 2010-2011

Human resources management

United Nations common system

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Administrative and financial implications of the decisions and recommendations contained in the report of the International Civil Service Commission for 2010

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the statement submitted by the Secretary-General (A/65/493) on the administrative and financial implications of the decisions and recommendations of the International Civil Service Commission (ICSC) for the common system, as contained in the report of the Commission to the General Assembly for 2010 (A/65/30). The statement describes the financial implications for the programme budget of the United Nations commencing with the biennium 2010-2011 and also the implications for the budgets of peacekeeping operations and the support account for peacekeeping operations, commencing with the peacekeeping financial period from 1 July 2010 to 30 June 2011. During its consideration of the statement, the Committee met with representatives of the Secretary-General and of ICSC, who provided additional information and clarification.

2. As in the past, the Advisory Committee has confined its consideration of the financial implications of recommendations contained in the report of the Commission to those submitted to the General Assembly by the Secretary-General in his statement. The views of the Committee on the recommendations of the Commission in respect of harmonization of the conditions of service for staff

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serving in non-family duty stations are contained in section III of its report on human resources management (A/65/537).

3. As indicated in the Secretary-General's statement, the report of the Commission contains decisions and recommendations with financial implications for the organizations of the United Nations system related to the following issues:

(a) Conditions of service of staff in both the Professional and higher categories and the General Service and related categories: education grant;

(b) Conditions of service of staff in the Professional and higher categories:

(i) Base/floor salary scale;

(ii) Children's and secondary dependant's allowances;

(c) Conditions of service in the field: harmonization of the conditions of service for staff serving in non-family duty stations in the common system:

(i) Harmonization of the designation of non-family duty stations;

(ii) Additional hardship allowance under the existing mobility and hardship scheme for staff serving in non-family duty stations;

(iii) Harmonization of rest and recuperation travel for staff members and United Nations Volunteers serving in peacekeeping missions and special political missions.

II. Conditions of service of staff in both the Professional and higher categories and the General Service and related categories: education grant

4. As outlined in paragraph 2 of the Secretary-General's statement, the Commission reviewed the proposals by the Human Resources Network of the United Nations System Chief Executives Board for Coordination for a review of the levels of the education grant on the basis of an analysis of expenditure data in respect of claims submitted for the 2008/09 academic year. Having reviewed both the movement of school fees and the percentage of claims submitted that exceeded the maximum admissible expenses, the Commission decided in all cases to limit the percentage increase in the ceiling to 100 per cent of the fee movement or the percentage increase required to bring 95 per cent of the cases within the ceiling, whichever was lower. The recommendations of the Commission in respect of particular countries/zones are outlined in paragraph 83 and annex III to its report.

5. The annual financial implications arising from the above-mentioned adjustment amount to $2.82 million for the United Nations and other participating organizations of the common system. The financial implications for the United Nations programme budget for the biennium 2010-2011 are estimated at $170,900.

6. The financial implications of the recommendation for the budgets of peacekeeping operations for 2010/11 and 2011/12 are estimated at $84,300 and $168,600, respectively.

7. The financial implications of the recommendation for the budgets of the support account for peacekeeping operations for 2010/11 and 2011/12 are estimated at $10,900 and $21,800, respectively.

III. Conditions of service of staff in the Professional and higher categories

A. Base/floor salary scale

8. As indicated in paragraph 9 of the Secretary-General's statement, the cumulative movement of the United States federal civil service net salaries in Washington, D.C., the current comparator, increased by 1.37 per cent compared with 2009 levels. In accordance with the approved procedures and past practice, an upward adjustment of 1.37 per cent in the common system salary scale for staff in the Professional and higher categories was recommended with effect from 1 January 2011. The increase in the base/floor salary scale would be implemented by consolidating 1.37 per cent of the post adjustment into the base/floor salary on a no-loss/no-gain basis. However, as separation payments are linked to the base/floor salary scale, the increase would have financial implications, as detailed below.

9. The Secretary-General estimates that the annual financial implications of the recommendation would amount to approximately $673,000 for the United Nations and other participating organizations of the common system. For the United Nations programme budget for the biennium 2010-2011, the financial implications are estimated at $88,600.

10. The financial implications of th recommendation for the budgets of peacekeeping operations for 2010/11 and 2011/12 are estimated at $63,800 and $127,600, respectively.

11. The financial implications of the recommendation for the budgets of the support account for peacekeeping operations for 2010/11 and 2011/12 are estimated at $14,400 and $28,800, respectively.

B. Children's and secondary dependant's allowances: review of the level

12. Following its biennial review of dependency allowances for the Professional and higher categories, the Commission has recommended to the General Assembly that, effective 1 January 2011: (a) the children's allowance should be set at a global flat-rate amount of $2,929 per annum and the disabled children's allowance should be $5,858 per annum; (b) the secondary dependant's allowance should be set at $1,025 per annum; (c) the United States dollar amount of the allowance should be converted to local currency, using the official United Nations rate of exchange as at the date of implementation, and should remain unchanged until the next biennial review; (d) as a transitional measure, where, at the time of implementation, the revised flat-rate allowance is lower than the one currently in effect, the allowances payable to currently eligible staff should be equal to the higher rate reduced by 50 per cent of the difference between the two rates; and (e) the dependency

allowances should be reduced by the amount of any direct payments received by staff from a Government in respect of dependants.

13. The annual financial implications of the recommendation amount to $3.9 million for the United Nations and other participating organizations of the common system. For the United Nations programme budget for the biennium 2010-2011, the financial implications are estimated at $112,500.

14. The financial implications of the recommendation for the budgets of peacekeeping operations for 2010/11 and 2011/12 are estimated at $55,500 and $111,000, respectively.

15. The financial implications of the recommendation for the budgets of the support account for peacekeeping operations for 2010/11 and 2011/12 are estimated at $7,200 and $14,400, respectively.

IV. Conditions of service in the field: harmonization of the conditions of service for staff serving in non-family duty stations in the common system

16. The Commission's consideration of the issue of harmonization of the conditions of service for staff serving in non-family duty stations is outlined in paragraphs 193 to 243 of its report. ICSC notes that prior to July 2009, mission appointees in peacekeeping operations received a pay package consisting of two elements: a mission subsistence allowance, which was intended as a lump sum to meet the costs of being at the duty station, and a base salary to meet commitments outside the duty station. Since the implementation of contractual reform, mission appointees receive the standard pay package in terms of post adjustment and benefits and allowances, and as such they remain the only common system staff serving in non-family duty stations not to benefit from any second household allowance.

17. The Commission recommended to the General Assembly that it:

(a) Harmonize the designation of non-family duty stations;

(b) Provide additional hardship allowance under the existing mobility and hardship scheme to staff serving in non-family duty stations;

(c) Harmonize of rest and recuperation travel.

The Commission recommended that the effective date of implementation of the recommendations be six months after any decision by the General Assembly; therefore the envisaged starting date for implementation would be 1 July 2011.

18. **The Advisory Committee's views on the Commission's recommendations on harmonization of the conditions of service for staff serving in non-family duty stations are contained in section III of its report on human resources management (A/65/537). The Committee underscores the importance of the common system approach to the development and application of conditions of service and supports the principle that staff serving under similar conditions should receive similar treatment across the system. As such, the Committee commends ICSC for putting forward recommendations on the harmonization of conditions of service for staff serving in non-family duty stations that should**

be applicable to the United Nations and the agencies, funds and programmes that participate in the common system.

19. The statement of the Secretary-General provides estimates of the financial implications of the above-mentioned recommendations for the United Nations for the first year of implementation, starting from 1 July 2011, and the annual recurring costs thereafter (table 1), the cost implications for the programme budgets for the United Nations for the bienniums 2010-2011, 2012-2013 and 2014-2015 and onward (table 2) and the cost implications for the budgets of peacekeeping operations for 2011-12 and 2012-13 and onward (table 3).

20. As detailed in table 1 of the statement, the net financial implications of the Commission's recommendations for the United Nations for the first year of implementation are estimated at $130,492,000 ($14,607,000 for the regular budget in respect of special political missions and $115,885,000 for peacekeeping operations). This estimate takes into account savings from the discontinuation of payment of the personal transition allowance, estimated at $25,571,000. The annual recurring costs after 1 July 2012 are estimated at $140,424,800 ($15,560,000 for special political missions and $124,854,800 for peacekeeping operations).

A. Harmonization of the designation of non-family duty stations

21. Currently all organizations of the common system, with the exception of peacekeeping operations and special political missions, designate duty stations as family or non-family on the basis of a security assessment. In its report, ICSC sought to harmonize the designation of the non-family duty stations on the basis of the security assessment. The comments of the Advisory Committee on this recommendation are contained in its report on human resources management (A/65/537, sect. III). That report also provides information on both current family and non-family duty stations as well as on locations that are presently designated as non-family duty stations but that would, on the basis of the current security assessment, be designated as family duty stations should the General Assembly approve the Commission's recommendation (ibid., annex I).

22. As detailed in table 1 of the statement of the Secretary-General, the net financial implications for the United Nations for the first year of implementation, from 1 July 2011 to 30 June 2012, of the Commission's recommendation on harmonization of the designation of non-family duty stations amount to $20,406,000 ($3,530,000 for special political missions and $16,876,000 for peacekeeping operations). This estimate takes into account savings of $7,973,000 from the discontinuation of the personal transition allowance. The annual recurring costs after the first year of implementation, that is, after 1 July 2012, are estimated at $12,740,800 ($4,253,000 for special political missions and $8,487,800 for peacekeeping operations). The Secretary-General notes that the implementation of this recommendation would involve greater costs for the Secretariat during the first year, due primarily to the initial costs of moving family members to duty stations that change from their current designation as non-family duty stations. This recommendation has no cost implications for the rest of the common system.

23. As indicated in table 2 of the statement, the net financial implications for the United Nations programme budget for the biennium 2010-2011 and the proposed

programme budgets for 2012-2013 and 2014-2015 and onward have been estimated at $4,201,000, $5,708,500 and $8,506,000, respectively.

24. Table 3 of the statement indicates that the net financial implications for the budgets of peacekeeping operations for the periods 2011/12 and 2012/13 and onward have been estimated at $16,876,000 and $8,487,800, respectively.

B. Additional hardship allowance under the existing mobility and hardship scheme to staff serving in non-family duty stations

25. The Commission is recommending discontinuation of the special operations approach and extended monthly security evacuation allowance, which had been applied by certain agencies, funds and programmes. Instead, the Commission has recommended a change in the existing hardship allowance whereby staff assigned to non-family duty stations would receive an additional amount of hardship allowance in recognition of the fact that such service represents an increased level of financial and psychological hardship in terms of involuntary separation from family and the additional costs related to such service. Thus, while such staff would continue to receive the normal hardship allowance applicable to the duty station to which they are assigned, they would also receive an additional amount as follows:

(a) Staff paid at the dependency rate would receive an additional amount of 100 per cent of the applicable dependency rate of the hardship allowance for category E, the most difficult duty stations;

(b) Staff paid at the single rate would be paid an additional amount based on 50 per cent of the applicable single rate of the hardship allowance for a category E duty station.

Information on the current hardship allowances and the proposed additional hardship allowance for service in non-family duty stations is outlined in annex X to the report of ICSC.

26. The Advisory Committee observes that the Commission conducted an analysis of the actual amounts staff reported spending on rent outside their non-family duty stations, weighted by the nationality of all staff serving in non-family duty stations, in order to approximate costs at the locations where staff were most likely to maintain a home base, that is, their home country. The Commission found that this amount was around $1,500, excluding the cost of utilities and other expenses associated with the maintenance of a home base (see A/65/30, para. 232).

27. The Commission pointed out several advantages of viewing service in a non-family duty station as an element of hardship compared with the introduction of a separate allowance, including the fact that the use of the hardship allowance would place the issue of compensation for service in non-family duty stations within the purview of the Commission, thereby ensuring that any future changes would remain harmonized (ibid., para. 237). The comments of the Advisory Committee on this recommendation are contained in section III of its report on human resources management (A/65/537).

28. The financial implications of the additional hardship allowance are estimated by the Secretary-General to be $62,915,000 annually in respect of staff members of the Secretariat. However, the financial implications in the first year of

implementation are estimated at $45,317,000 because of the discontinuation of payment of the personal transition allowance. As outlined in paragraph 39 of the statement of the Secretary-General, this differs from the Commission's estimate of $46.8 million owing to the time lag between the two calculations and a difference in the assumptions used.

29. Conversely, the Commission estimated cost savings of $24.9 million annually for the other United Nations agencies, funds and programmes. **The Advisory Committee notes that the estimated reduction of staff costs of $24.9 million for United Nations agencies, funds and programmes would be achieved progressively in line with the five-year implementation plan for full harmonization outlined in annex XIII to the Commission's report.** Upon enquiry, the Committee was provided with information on the impact on the total remuneration of staff of the agencies, funds and programmes. It was noted that while close to 10 per cent of staff would see an increase in payments following the implementation of the Commission's recommendations, the vast majority would receive reduced remuneration. In general, the reductions would be greater for staff being paid at the single rate. This reflects the fact that currently all staff eligible for the special operations living allowance in a particular location receive the same amount, irrespective of whether they are being paid at the dependency or single rate.

30. As detailed in table 1 of the statement of the Secretary-General, the total net financial implications of the Commission's recommendation, estimated by the Secretariat, for the first year of implementation, from 1 July 2011 to 30 June 2012, amount to $45,317,000 ($5,520,000 for special political missions and $39,797,000 for peacekeeping operations). This reflects savings in respect of the discontinuation of payment of the personal transition allowance of $17,598,000. From 1 July 2012, the annual recurring financial implications are estimated at $62,915,000 ($5,750,000 for special political missions and $57,165,000 for peacekeeping operations).

31. As shown in table 2 of the statement, the net financial implications for the United Nations programme budget for 2010-2011, 2012-2013 and 2014-2015 and onward have been estimated at $2,760,000, $11,385,000 and $11,500,000, respectively.

32. As indicated in table 3 of the statement, the net financial implications for the budgets of peacekeeping operations for the periods 2011/12 and 2012/13 and onward have been estimated at $39,797,000 and $57,165,000, respectively.

C. Harmonization of rest and recuperation travel

33. The Commission recommended to the General Assembly that the conditions governing rest and recuperation be harmonized across the common system. The recommendation, as detailed in annex XI of the Commission's report, is that the scheme comprise four elements:

(a) Time off, not charged to annual leave;

(b) Travel time;

(c) Contribution towards accommodation at the designated place of rest;

(d) Paid travel from the place of duty to the designated rest and recuperation location.

34. The annual recurring financial implications of the harmonization of rest and recuperation travel are estimated at $45,147,000 for staff of the Secretariat. In addition, while the report of the Commission does not take into account United Nations Volunteers, their conditions of service stipulate that they should operate under the same rest and recuperation scheme as that applicable to staff of the organization in which they serve. As such, the financial implications of this recommendation in respect of United Nations Volunteers serving in peacekeeping operations and special political missions are estimated at $19,622,000. As outlined in table 1 of the statement of the Secretary-General, the total annual recurring costs are therefore estimated at $64,769,000 ($5,557,000 for special political missions and $59,212,000 for peacekeeping operations).

35. As indicated in table 2 of the statement, the net programme budget implications for the United Nations programme budget for the bienniums 2010-2011, 2012-2013 and 2014-2015 and onward have been estimated at $2,778,500, $11,114,000 and $11,114,000, respectively.

36. As shown in table 3 of the statement, the net programme budget implications for the budgets of peacekeeping operations from the 2011/12 financial period onward have been estimated at $59,212,000.

37. Upon enquiry, a breakdown of the estimated annual costs in respect of staff members and United Nations Volunteers for the individual components of travel and lump sum amount was provided, as follows:

Estimated annual costs of rest and recuperation travel
(United States dollars)

	Staff members		
	Travel	*Lump sum*	*Total*
Peacekeeping operations	20 238 725	20 092 500	40 331 225
Special political missions	1 915 100	2 899 500	4 814 600
Total	**22 153 825**	**22 992 000**	**45 145 825**
	United Nations Volunteers		
Peacekeeping operations	9 705 425	9 174 000	18 879 425
Special political missions	332 240	409 500	741 740
Total	**10 037 665**	**9 583 500**	**19 621 165**

Note: The figures in the statement of the Secretary-General have been rounded to the nearest $1,000.

38. The comments of the Advisory Committee on this recommendation are contained in section III of its report on human resources management (A/65/537). The Committee was provided with information on the estimated costs for each peacekeeping operation in respect of the recommendation on a harmonized rest and recuperation scheme as well as information on the basis on which the estimates were calculated (see annex). It is noted that the calculations were based on the premise that staff members will avail themselves of rest and recuperation travel when it falls due, with the frequency of trips being reduced to take into account the anticipated

absence of staff from mission on home leave or family visit, which would break the rest and recuperation qualifying service period. **The Committee notes that qualifying periods for rest and recuperation will also be affected by periods of annual leave. It further notes that it is also possible that not all staff will take their rest and recuperation breaks when they become due. The Committee notes that, all things being equal, this would have the effect of reducing actual expenditures in this area.**

V. Conclusion

39. The financial implications arising from the decisions and recommendations of ICSC for the programme budget for the bienniums 2010-2011, 2012-2013 and 2014-2015 and onward are estimated at $10,111,500, $28,951,500 and $31,864,000, respectively, as summarized in table 4 of the statement of the Secretary-General, reproduced below.

Summary of financial implications for programme budgets and proposed programme budgets as a result of the decisions and recommendations of the Commission

(United States dollars)

		Biennium 2010-2011	*Biennium 2012-2013*	*Biennium 2014-2015 onward*
(a)	Education grant	170 900	341 800	341 800
(b)	Base/floor salary scale	88 600	177 200	177 200
(c)	Children's and secondary dependant's allowances	112 500	225 000	225 000
(d)	Harmonization of the conditions of service for staff serving in non-family duty stations	9 739 500	28 207 500	31 120 000
	Total	**10 111 500**	**28 951 500**	**31 864 000**

40. The financial implications arising from the decisions and recommendations of ICSC for the budgets of peacekeeping operations for the periods 2010/11, 2011/12 and 2012/13 and onward are estimated at $203,600, $116,292,200 and $125,272,000, respectively. The financial implications for the support account for peacekeeping operations for the periods 2010/11 and 2011/12 and onward are estimated at $32,500 and $65,000, respectively as detailed in table 5 of the statement of the Secretary-General, reproduced below.

Summary of financial implications for the budgets of peacekeeping operations and the support account for peacekeeping operations as a result of the decisions and recommendations of the Commission

(United States dollars)

	1 July 2010-30 June 2011		*1 July 2011-30 June 2012*		*1 July 2012-30 June 2013*	
	Peacekeeping operations budgets	*Support account*	*Peacekeeping operations budgets*	*Support account*	*Peacekeeping operations budgets*	*Support account*
(a) Education grant	84 300	10 900	168 600	21 800	168 600	21 800
(b) Base/floor salary scale	63 800	14 400	127 600	28 800	127 600	28 800
(c) Children's and secondary dependant's allowances	55 500	7 200	111 000	14 400	111 000	14 400
(d) Harmonization of the conditions of service for staff serving at non-family duty stations	—	—	115 885 000	—	124 864 800	—
Subtotal	**203 600**	**32 500**	**116 292 200**	**65 000**	**125 272 000**	**65 000**
Total (peacekeeping operations and support account)		**236 100**		**116 357 200**		**125 337 000**

41. As indicated in paragraph 53 of the statement of the Secretary-General, subject to approval by the General Assembly of the recommendations of the Commission, the requirements under the programme budget for the biennium 2010-2011, estimated at $10,111,500, will be considered in the context of the performance reports for that biennium, and requirements for the biennium 2012-2013 will be considered in the context of the proposed programme budget for that biennium. Similarly, as indicated in paragraph 55 of the statement, the requirements for peacekeeping missions and the support account for the current period, estimated at $236,100, will be reflected in the performance reports for the period from 1 July 2010 to 30 June 2011 and in the context of the proposed budgets for the period from 1 July 2011 to 30 June 2012. **The Advisory Committee has no objection to the approach of the Secretary-General outlined in paragraphs 53 and 55 of his statement.**

Annex

Breakdown of estimated rest and recuperation costs for peacekeeping operations and special political missions

1. The cost estimates for paid rest and recuperation travel reflect a lump sum payment of $750 per trip and payment for the cost of travel from the mission to the location designated by the Human Resources Network for rest and recuperation purposes. The frequency of rest and recuperation breaks used in the estimates are as determined by the Network as from 1 July 2010 and is harmonized with that of the United Nations agencies, funds and programmes. The number of rest and recuperation trips per year has been reduced to take into account the anticipated absences of staff from the mission on home leave or family visit travel, which would break the rest and recuperation qualifying service.

2. The table below provides a breakdown of the number of staff, the estimated number of rest and recuperation trips per year, the cost of travel to the designated location and the lump-sum amount by mission. While some missions have air transport facilities, the use of United Nations air transport for rest and recuperation purposes is provided on a non-interference basis, and mission personnel travelling on duty have priority over staff travelling on rest and recuperation. As the use of United Nations transport depends on the availability of space, flight schedule and destination, the cost estimates provide for travel expenses on rest and recuperation for all missions except for those where mission transport is the only means of travel out of the duty station or where travel is by road, in which case no travel expenses have been included.

Mission	*Location*	*Rest and recuperation location*	*Cycle (weeks)*	*Annual trips*	*Staff*	*United States dollars*				
						Estimated travel expenses per trip per person	*Total travel expenses for all staff*	*Lump sum per person per trip*	*Total lump sum for all staff*	*Total travel and lump sum*
United Nations Integrated Office in Burundi	Burundi	Nairobi	8	5	121	500	302 500	750	453 750	756 250
United Nations Integrated Peacebuilding Office in the Central African Republic	Central African Republic	Yaoundi	12	2	24	700	33 600	750	36 000	69 600
United Nations Mission in the Central African Republic and Chad	Chad	Addis Ababa	8	5	419	1 275	2 671 125	750	1 571 250	4 242 375
United Nations Mission for the Referendum in Western Sahara	Laayoune	Las Palmas	12	3	96	850	244 800	750	216 000	460 800
United Nations Stabilization Mission in Haiti	Haiti	Santo Domingo	6	6	477	300	858 600	750	2 146 500	3 005 100
United Nations Organization Stabilization Mission in the Democratic Republic of the Congo	Democratic Republic of the Congo	Nairobi	8	5	1 000	1 000	5 000 000	750	3 750 000	8 750 000
United Nations Operation in Côte d'Ivoire	Côte d'Ivoire	Accra	12	3	398	400	477 600	750	895 500	1 373 100
United Nations Assistance Mission in Afghanistan	Afghanistan	Dubai	6	6	330	700	1 386 000	750	1 485 000	2 871 000
United Nations Assistance Mission for Iraq	Iraq	Amman	4	8	107	0	0	750	642 000	642 000
African Union-United Nations Hybrid Operation in Darfur	Darfur	Nairobi	6	6	1 091	700	4 582 200	750	4 909 500	9 491 700
United Nations Interim Force in Lebanon	Tyre	Beirut	12	3	319	0	0	750	717 750	717 750
United Nations Integrated Peacebuilding Office in Guinea-Bissau	Bissau	Dakar	12	3	10	380	11 400	750	22 500	33 900
United Nations Integrated Peacebuilding Office in Sierra Leone	Sierra Leone	Dakar	16	2	29	700	40 600	750	43 500	84 100

Mission	Location	Rest and recuperation location	Cycle (weeks)	Annual trips	Staff	United States dollars: Estimated travel expenses per trip per person	Total travel expenses for all staff	Lump sum per person per trip	Total lump sum for all staff	Total travel and lump sum
United Nations Interim Administration Mission in Kosovo	Pristina	Ljubljana	8	5	146	500	365 000	750	547 500	912 500
United Nations Mission in Liberia	Liberia	Dakar	8	5	450	1 230	2 767 500	750	1 687 500	4 455 000
United Nations Mission in the Sudan	Khartoum	Nairobi	8	5	830	650	2 697 500	750	3 112 500	5 810 000
United Nations Integrated Mission in Timor-Leste	Dili	Darwin	16	2	359	800	574 400	750	538 500	1 112 900
United Nations Military Observer Group in India and Pakistan	Pakistan	Istanbul	6	6	23	725	100 050	750	103 500	203 550
United Nations Regional Centre for Preventive Diplomacy for Central Asia	Turkmenistan	Istanbul	16	2	8	450	7 200	750	12 000	19 200
Office of the United Nations Special Coordinator for the Middle East Peace Process	West Bank	Amman	8	5	27	250	33 750	750	101 250	135 000
Total							**22 153 825**		**22 992 000**	**45 145 825**

Note: The figures in the statement of the Secretary-General have been rounded to the nearest $1,000.

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Programme budget for the biennium 2010-2011

Conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/65/134 and Corr.1). During its consideration of the report, the Advisory Committee met with representatives of the Secretary-General and with the President of the International Criminal Tribunal for Rwanda, who provided additional information and clarification.

2. The report of the Secretary-General was submitted pursuant to General Assembly resolution 63/259, in which the Assembly decided that the emoluments, pensions and other conditions of service for the members of the International Court of Justice and the judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda should next be reviewed at its sixty-fifth session. The Assembly also stipulated that the review should include options for defined-benefit and defined-contribution pension schemes and requested the Secretary-General to ensure that, when conducting the review, full advantage was taken of the expertise available within the United Nations.

3. The review conducted by the Secretary-General covers the following issues: remuneration; the special allowance of the Presidents of the International Court of Justice and the Tribunals and of the Vice-Presidents when acting as President;

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assistance with education costs; health insurance; survivors' benefit; travel and subsistence regulations; relocation allowance; hardship factor; and retirement benefits. In section II of the present report, the Advisory Committee addresses the Secretary-General's proposals regarding the remuneration, entitlements and benefits of all members of the International Court of Justice and/or all judges of the Tribunals, including, where appropriate, the ad hoc and ad litem judges. Section III of the report covers only the proposals of the Secretary-General concerning the extension of certain entitlements and benefits to the ad litem judges of the two Tribunals. With regard to those entitlements and benefits in respect of which the Secretary-General has not put forward any proposals (namely, health insurance, survivors' benefit, education grant for the permanent judges of the Court and the Tribunals and hardship factor), the Advisory Committee takes note of the relevant information contained in the Secretary-General's report (see A/65/134, paras. 19-25, 31-33 and 74-76).

II. Remuneration, entitlements and benefits of all members of the International Court of Justice and/or all judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda

Remuneration

4. In paragraphs 3 to 13 of his report, the Secretary-General provides background information on the emoluments of the members and ad hoc judges of the International Court of Justice and the judges and ad litem judges of the Tribunals. In paragraphs 60 to 67, the Secretary-General describes the outcome of his review.

5. The Secretary-General indicates, inter alia, that pursuant to article 32 of the Statute of the International Court of Justice, each member of the Court shall receive an annual salary and that the salaries and allowances of the members shall be fixed by the General Assembly. Article 13, paragraph 3, of the Statute of the International Tribunal for the Former Yugoslavia provides that the terms and conditions of service of the judges shall be as they are for the judges of the International Court of Justice, and article 12, paragraph 5, of the Statute of the International Criminal Tribunal for Rwanda provides that the terms and conditions of service of its judges shall be the same as those of the judges of the International Tribunal for the Former Yugoslavia. Ad hoc judges of the International Court of Justice are compensated for each day they exercise their functions at a rate of one three-hundred-and-sixty-fifth of the sum of the annual salary payable to the members of the Court. Ad litem judges of the Tribunals receive an annual salary prorated for length of service.

6. Since January 2007, the salaries of the members of the Court and the judges of the Tribunals have comprised an annual base salary with a corresponding post adjustment per index point equal to 1 per cent of the net base salary, to which is applied a post adjustment multiplier for the Netherlands or for the United Republic of Tanzania, as appropriate (see General Assembly resolution 61/262). The Secretary-General indicates in paragraph 65 of his report that, as at 1 January 2010, the annual base salary of the members of the Court and the judges of the two Tribunals stood at $166,596. For the purposes of comparison, table 1 of his report presents information on the evolution of the judges' salaries since January 2008.

Annex I to the report contains data illustrating changes in the net remuneration of members of the International Court of Justice, Secretariat officials and members of United Nations bodies for the period from January 2005 to January 2010. Annex II illustrates the movement in the gross emoluments of officers of national judiciaries, the European Court of Human Rights and the International Criminal Court for the period from 2005 to 2010.

7. The Advisory Committee was informed by representatives of the Secretary-General that the salaries of the members of the International Court of Justice and the judges of the Tribunals had kept pace with those of judges of all comparable courts. Consequently, in paragraph 67 of his report, the Secretary-General proposes that no change be effected in the current remuneration system on the occasion of the present periodic review. **The Advisory Committee has no objection to the proposal made by the Secretary-General.**

Special allowance of the President and of the Vice-President when acting as President

8. In paragraph 17 of his report, the Secretary-General states that, pursuant to article 32 of the Statute of the International Court of Justice, the President of the Court shall receive a special annual allowance and the Vice-President shall receive a special allowance for each day on which he or she acts as President. Article 32 of the Statute also provides that the allowances shall be fixed by the General Assembly. In paragraph 18 of his report, the Secretary-General indicates that the amounts of the special allowance for the Presidents of the Tribunals and for the Vice-Presidents when acting as President are the same as those established for the President and Vice-President of the International Court of Justice.

9. Paragraphs 68 to 73 of the Secretary-General's report describe the findings of his review. In brief, he states that prior to 1980, the President's special allowance had historically been set at 24 per cent of salary, with the special daily allowance of the Vice-President when acting as President set at a ceiling amount equivalent to 62.5 per cent of the President's allowance for 100 days. In 1983, the Secretary-General proposed that the 24 per cent relationship between the special allowance of the President and the annual base salary, which had ceased to apply following the 1980 periodic review, should be restored. The Advisory Committee did not support the Secretary-General's proposal, expressing the view that the level of the special allowance should not be determined through the application of a fixed ratio to the annual base salary (see A/39/7/Add.1, para. 16). Accordingly, as of 1 January 1985, the President's allowance was set at a flat amount of $15,000 and the Vice-President's allowance at $94 a day for a maximum of 100 days (see General Assembly resolution 40/257 A). The allowances have remained at those levels ever since, despite the Secretary-General suggesting on several occasions that they should be increased.

10. In paragraph 73 of his report, the Secretary-General suggests that the General Assembly may wish to consider increasing the special allowance of the Presidents of the International Court of Justice and the Tribunals, and of the Vice-Presidents when acting as President, to $25,000 and $156 per day, respectively. The financial implications of such an increase for the biennium 2010-2011, assuming that benefits would commence on 1 January 2011, would amount to $16,200 for the International Court of Justice, $16,200 for the International Tribunal for the Former Yugoslavia and $16,200 for the International Criminal Tribunal for Rwanda (see A/65/134, table 2).

11. The Secretary-General states that, according to the Court, unlike in other bodies where the presiding officer is of a higher rank than the other members and therefore has a higher salary, the salary of the President of the Court is equal to that of the other members. Accordingly, it is only through the special allowance that the President (or the Vice-President when acting as President) is compensated for the additional duties and responsibilities associated with his or her position. The Secretary-General further states, in paragraph 72 of his report, that in the past, the President's allowance has never remained at the same level for such an extended period (more than 25 years), despite the trend in the cost of living. He also emphasizes that the workload of the Court, and notably that of the President, has increased not only in volume but also in complexity since 1985.

12. Upon enquiry, the Advisory Committee was informed that the additional tasks carried out by the Presidents of the Court and the Tribunals included presiding over all plenary meetings, coordinating the work of the chambers, supervising the work of the registries and issuing, where appropriate, practice directives addressing detailed aspects of the conduct of proceedings. At the Tribunals, following the introduction in 2003 of the completion strategies, the Presidents had taken on even more responsibilities, including managing the judicial calendar so to ensure that judges were appointed to all cases in a timely manner and that all cases were appropriately staffed, reporting every six months to the Security Council on the progress of the completion strategies and addressing the General Assembly on an annual basis. The Presidents also responded to audit enquiries, attended staff meetings and hosted a large number of visiting dignitaries every year.

13. In his report, the Secretary-General notes that, while prior to 1980 the President's special allowance had been set at 24 per cent of annual base salary, between 1981 and 1985 it represented 17.4 per cent of that amount and at its current level of $15,000 it represents 9 per cent. He further notes that if the General Assembly were to agree to the Secretary-General's proposal to increase the allowance to $25,000, it would represent an average of 15 per cent of annual base salary (see A/65/134, paras. 68 and 72). **Given the length of time that has passed since the last increase and the resulting trends in the cost of living, the Advisory Committee recommends that the General Assembly increase the special allowance of the Presidents of the International Court of Justice and the Tribunals and of the Vice-Presidents when acting as President to $25,000 and $156 per day, respectively.**

Travel and subsistence regulations

14. The Secretary-General indicates in paragraphs 26 and 27 of his report that the travel and subsistence regulations of the International Court of Justice were approved by the General Assembly in its resolution 37/240. The travel and subsistence regulations applicable to the judges of the two Tribunals were approved by the General Assembly in its resolution 53/214. Subsequently, in its resolution 56/285, the Assembly endorsed the Secretary-General's proposal that the reference to "installation grant" in the regulations applicable to the members of the Court and to the judges of the Tribunals be revised to refer to the "assignment grant" provisions applicable to senior officials of the Secretariat of the United Nations.

15. In paragraph 80 of his report, the Secretary-General recalls that the General Assembly last reviewed the travel and subsistence regulations for the members of the Court and the judges of the two Tribunals at its sixty-second session. At that

time, the Assembly endorsed the Advisory Committee's recommendation that there should be no change to articles 1, 2 or 3 (a) (ii) of the travel and subsistence regulations of the International Court of Justice (see A/62/7/Add.36, paras. 8 and 9, and General Assembly decision 62/547).

16. In paragraph 81 of his report, the Secretary-General proposes that no change be effected in the travel and subsistence regulations in respect of members of the International Court of Justice or the judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda on the occasion of the present periodic review. **The Advisory Committee recommends that the General Assembly endorse the Secretary-General's proposal.**

Relocation allowance

17. Background information on the genesis and evolution of the relocation allowance payable to members of the International Court of Justice is set out in paragraphs 29 and 30 of the Secretary-General's report. In brief, in its resolution 40/257 C the General Assembly decided that members of the Court who take up and maintain a bona fide residence in The Hague for at least five years during their service are eligible to receive, upon completion of their appointment and resettlement outside the Netherlands, a lump sum equivalent to 18 weeks of annual net base salary, while those who take up and maintain such a residence for at least nine consecutive years are eligible for a lump sum equivalent to 24 weeks of annual net base salary. Subsequently, in its resolution 59/282, the General Assembly also decided that members of the Court who take up and maintain a bona fide residence in The Hague for up to five years are eligible for a lump sum prorated on the basis of the 18-week ceiling referred to above, while those who take up and maintain such a residence for more than five but less than nine consecutive years are eligible for a lump sum prorated on the basis of the above-mentioned 24-week ceiling.

18. In paragraph 83 of his report, the Secretary-General recalls that, when defining the conditions of service of judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, he made a distinction between those judges and the members of the International Court of Justice in respect of certain benefits. In particular, with regard to the relocation allowance, a judge of either Tribunal who has maintained a bona fide residence in The Hague or Arusha, as appropriate, for at least three continuous years during his or her service is entitled to receive a lump sum equal to 12 weeks' net salary on the completion of his or her appointment and resettlement outside the Netherlands or the United Republic of Tanzania.

19. As noted in paragraph 5 above, the Statute of the International Tribunal for the Former Yugoslavia provides that the terms and conditions of service of the judges shall be as they are for the judges of the International Court of Justice (see art. 13 bis, para. 3) and the Statute of the International Criminal Tribunal for Rwanda provides that the terms and conditions of its judges shall be the same as those of the judges of the International Tribunal for the Former Yugoslavia (see art. 12 bis, para. 3). Accordingly, in paragraph 84 of his report, the Secretary-General suggests that, taking into consideration that the General Assembly, in its resolution 59/282, changed the conditions of service of the members of the Court by effectively removing the difference in their respective length of service as the basis for the difference in their entitlements, the Assembly may wish to consider reviewing the

conditions under which the judges of the two Tribunals are eligible for the relocation allowance with a view to aligning them to those of the judges of the Court. The financial implications of such an alignment for the biennium 2010-2011 would amount to $34,900 for the International Tribunal for the Former Yugoslavia and $266,000 for the International Criminal Tribunal for Rwanda (see A/65/134, table 2). **In view of the above-mentioned provisions of the Tribunals' Statutes, the Advisory Committee recommends that the General Assembly pursue the course of action proposed by the Secretary-General.**

20. As indicated in paragraph 3 above, the Advisory Committee's observations and recommendations on the issue of the relocation allowance as it applies specifically to the ad litem judges of the Tribunals are set out in section III below.

Retirement benefits

21. In paragraph 34 of his report, the Secretary-General notes that, pursuant to article 32, paragraph 7, of the Statute of the International Court of Justice, members of the Court are entitled to retirement pensions, the specific conditions of which are governed by regulations adopted by the General Assembly. In paragraphs 35 to 46 of his report, the Secretary-General gives an overview of the major decisions taken by the General Assembly in respect of the retirement benefits of the members of the International Court of Justice and of the permanent judges of the Tribunals.

22. By its resolution 53/214, the General Assembly decided to set the retirement pension for members of the Court at one half of their annual salary. In the same resolution, the Assembly approved the recommendation of the Advisory Committee that the pension benefits for the judges of the two Tribunals be based on those applicable to members of the Court, prorated to account for the difference in the length of their terms of appointment (see A/53/7/Add.6, para. 29).

23. In 2001, the Registrar of the International Court of Justice expressed concern over the disproportionate nature of pensions for retired members of the Court and/or their surviving spouses and suggested that steps could be taken to remedy the disparity in payments by an increase, to the extent possible, in pension payments to its former members. At that time, the Advisory Committee took the view that the General Assembly's decision to automatically revise pensions in payment by the same percentage and at the same date as salary adjustments continued to provide the necessary protection against an increase in the cost of living (see A/56/7/Add.2, para. 10). The Secretary-General nevertheless proposed that, in order to respond to the Court's concerns regarding the devaluation of the United States dollar vis-à-vis the euro, consideration should be given to applying the floor/ceiling mechanism to pensions in payment to former judges and their survivors residing in euro zone countries in order to protect the level of pensions against further erosion. Subsequently, in its resolution 59/282, the General Assembly decided to increase the annual value of all pensions in payment by 6.3 per cent as an interim measure and requested the Secretary-General to submit a comprehensive report to the Assembly at its sixty-first session on the protection of pensions in payment to former judges and their survivors as well as on the differences between the pension benefits of the judges of the two Tribunals and the members of the Court.

24. In compliance with the request of the General Assembly contained in its resolution 61/262, the Secretary-General commissioned, from a consulting firm, a study on options for designing pension schemes, including defined-benefit and

defined-contribution schemes, taking into account the possibility of calculating pensions on the basis of number of years served rather than term of office, and presented a report to the Assembly at its sixty-second session. At that time, the Advisory Committee endorsed some of the proposals made by the Secretary-General, in particular the proposal that the level of pension be determined by reference to years of service rather than to term of office, but did not endorse others, namely that the retirement benefits of the members of the Court be increased from 50 per cent to 55 per cent of the annual net base salary by reference to nine years of service and that members of the Court who are re-elected receive one three-hundredth of their retirement benefit for each further month of service, up to a maximum pension of three fourths of annual net base salary (see A/63/570).

25. In its resolution 63/259, the General Assembly endorsed the above-mentioned conclusions and recommendations of the Advisory Committee. The Assembly also noted that, in his report, the Secretary-General had proposed essentially only one option for designing pension schemes and that, rather than using the expertise available within the Organization, he had relied on the services of a consultant. Accordingly, the Assembly decided that, in the context of the next review of the emoluments, pensions and other conditions of service of the members of the Court and the judges of the two Tribunals, to be conducted at its sixty-fifth session, the Secretary-General should put forward options for defined-benefit and defined-contribution pension schemes and, in that regard, that he should ensure that full advantage be taken of the expertise available within the United Nations.

26. In paragraphs 88 to 90 of his report, the Secretary-General advises that, in accordance with General Assembly resolution 63/259, he engaged the expertise of the United Nations Joint Staff Pension Fund to participate in the review of options for defined-benefit and defined-contribution pension schemes. He further indicates, however, that, given the importance and scope of the review, the Fund considered that there was not enough time to prepare a sufficiently detailed report for consideration by the Assembly at its sixty-fifth session. The Fund also noted that it lacked the manpower and resources to undertake such a study on its own, and therefore proposed the establishment of a working group, including its own representatives and representatives of the Office of Human Resources Management, the International Civil Service Commission, the Court and the Tribunals, to complete a thorough review of retirement plan alternatives.

27. In paragraph 90 of his report, the Secretary-General indicates that the review, to be conducted in three stages, is expected to be completed in time for the sixty-sixth session of the General Assembly. He further indicates that any proposed changes, if approved, are not expected to have an impact on the pensions of serving or retired judges. Accordingly, the Secretary-General proposes that the review of the pension schemes for the members of the International Court of Justice and the judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda be postponed until the sixty-sixth session of the General Assembly. **The Advisory Committee has no objection to the Secretary-General's proposal.**

28. With regard to the ad hoc judges of the International Court of Justice, the Secretary-General proposes, in paragraph 91 of his report, that no change be effected in the arrangements for their retirement benefits on the occasion of the present periodic review. **The Advisory Committee recommends that the General Assembly endorse the Secretary-General's proposal.**

29. As indicated in paragraph 3 above, the Advisory Committee's observations and recommendations on the issue of retirement benefits as they apply specifically to the ad litem judges of the Tribunals are set out in section III below.

III. Issues affecting only the ad litem judges of the International Tribunal for the Former Yugoslavia and of the International Criminal Tribunal for Rwanda

30. It may be recalled that, when the Security Council established pools of ad litem judges at the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (pursuant to resolutions 1329 (2000) and 1431 (2002), respectively), the Statutes of the Tribunals were amended to provide that, during the period in which they were appointed to serve, ad litem judges would benefit from the same terms and conditions of service, mutatis mutandis, as the permanent judges. The Statutes were further amended to reflect the understanding that, in contrast to the permanent judges, the ad litem judges would serve in the Trial Chambers for a limited period, specifically a cumulative period of up to, but not including, three years (see article 13 ter of the Statute of the International Tribunal for the Former Yugoslavia and article 12 ter of the Statute of the International Criminal Tribunal for Rwanda). In this connection, the Advisory Committee notes that the statutory procedure for the election of ad litem judges differs from that for the election of permanent judges, in that the General Assembly elects 14 permanent judges from a list of not less than 28 and not more that 42 candidates, whereas the Assembly elects a total of 27 ad litem judges from a list of not less than 54 candidates (see articles 13 bis and ter of the Statute of the International Tribunal for the Former Yugoslavia and articles 12 bis and ter of the Statute of the International Criminal Tribunal for Rwanda).

31. As the Secretary-General indicates in paragraph 10 of his report, the General Assembly, at its fifty-fifth session, was requested to consider approving conditions of service for the ad litem judges of the International Tribunal for the Former Yugoslavia (see A/55/756, paras. 18-25). At that time, the Advisory Committee drew attention to the mutatis mutandis provision in the Statute of the Tribunal and stated that the service of the ad litem judges was of a much more temporary nature than that of the permanent judges and could be intermittent. Accordingly, the Advisory Committee agreed with the Secretary-General that ad litem judges should not be eligible for payment of a relocation allowance and expressed the view that, given the uncertainty as to the length of service and taking into account the probability of breaks in service, there was also no need to extend the education allowance or the lump-sum survivors' benefit to the ad litem judges. The Advisory Committee also agreed with the Secretary-General that ad litem judges would not be entitled to pension benefits, pointing out that the limitation of their service to a cumulative period of less than three years had the effect of preventing them from reaching the three-year period of service after which they would be eligible for such benefits (see A/55/806, paras. 7, 10-11 and 14). In its resolution 55/249, the General Assembly endorsed the observations and recommendations of the Advisory Committee. Identical conditions of service for the ad litem judges of the International Criminal Tribunal for Rwanda were subsequently approved by the Assembly in its resolution 57/289.

32. The Advisory Committee notes, however, that since the approval of the conditions of service referred to above, both Tribunals have adopted completion strategies (see Security Council resolution 1503 (2003)). The Tribunals were initially hoping to complete their work by 2008; at present the International Tribunal for the Former Yugoslavia estimates that it will complete all trial proceedings by the end of 2012 and that appellate activity will continue into 2014 (see S/2010/270, paras. 4 and 8). The International Criminal Tribunal for Rwanda intends to complete its trial work in 2011, with appeals to be completed by the end of 2013, if no new arrests of indictees to be tried in Arusha occur (see S/2010/259, para. 82). Accordingly, the Security Council, by means of various resolutions (1705 (2006), 1717 (2006), 1877 (2009) and 1878 (2009)), has recognized the need for and authorized ad litem judges to serve beyond the maximum cumulative period of three years in the greater interest of expediting the completion of the work of the Tribunals. The table below paragraph 97 of the Secretary-General's report shows that, by the time their respective cases are completed, the majority of the ad litem judges of both Tribunals will have served for more than three years.

33. The Advisory Committee recalls that, in late 2009, by means of letters and discussions, the Presidents of the two Tribunals requested the Secretary-General to bring the differences in the conditions of service between the permanent judges and the ad litem judges of the Tribunals to the urgent attention of the General Assembly for appropriate action or decision. In support of his request, the President of the International Tribunal for the Former Yugoslavia noted that the ad litem judges had been providing indispensable services in expediting the work of the Tribunal and that the extensions of their mandates had also secured the continuity of the judicial work. For his part, the President of the International Criminal Tribunal for Rwanda highlighted the fact that the workload of the ad litem judges is identical to that of the permanent judges and that their responsibilities are nearly identical. He also pointed out that, in its resolution 1878 (2009), the Security Council had noted the concerns expressed about the terms and conditions of service of the ad litem judges but could not take any action because the matter fell within the purview of the General Assembly. He expressed the view that the continuing differences between the terms and conditions of service of the permanent judges and those of the ad litem judges were no longer justified and should be addressed in the interest of both equity and the successful implementation of the completion strategy of the Tribunal (see A/64/635, paras. 2-4).

34. The Secretary-General's initial response to those requests, in which he focuses primarily on the extension of pension benefits to the ad litem judges, is contained in document A/64/635. In its related report, the Advisory Committee expressed the view that it would be most appropriate to consider the matter of pension benefits for the ad litem judges in the context of the wider review of the emoluments, pensions and other conditions of service for the members of the International Court of Justice and the judges of the Tribunals to be conducted by the General Assembly at its sixty-fifth session (see A/64/7/Add.20, para. 15). Nevertheless, the Committee highlighted a number of issues to be borne in mind by the General Assembly when it considered the matter, namely eligibility as it relates to length of service; whether the workload and responsibilities of the ad litem judges are truly identical to those of the permanent judges; and whether, given the changed circumstances of the Tribunals' operations, the differences in the conditions of service of the two categories of judge continue to be justified (see A/64/7/Add.20, paras. 9-12).

35. In the same report, the Advisory Committee also recalled that, in its first report on the conditions of service of the ad litem judges of the International Tribunal for the Former Yugoslavia, it had stated that, although highly unlikely, circumstances could lead to a trial lasting long enough that the service of an ad litem judge would exceed three years. To cover that eventuality, the Committee had recommended that the letter of appointment should contain a proviso that, notwithstanding such a development, the consequential extension of service would not give rise to any additional entitlements or benefits other than those which already existed and which would be extended pro rata by virtue of the extension of service (see A/55/806, para. 14). The General Assembly, in its resolution 55/249, endorsed that recommendation and the Advisory Committee, during its consideration of the Secretary-General's report to the sixty-fourth session of the General Assembly, was informed that the proviso had been included in all letters of appointment signed by ad litem judges at both Tribunals (see A/64/7/Add.20, para. 8).

36. In its resolution 64/261, the Assembly endorsed the conclusions and recommendations of the Advisory Committee and decided that the difference in pension rights between the ad litem and the permanent judges of the two Tribunals should be resolved as a priority of the General Assembly at the main part of its sixty-fifth session. Upon enquiry, the Advisory Committee was informed that the matter required the Assembly's urgent attention because ad litem judges would be needed to handle the remaining workload of the Tribunals, including the anticipated requests for referrals to national jurisdictions, the possible trial of recently arrested accused persons and evidence preservation hearings. If the differences in the conditions of service persisted, ad litem judges might not be willing to take on additional work and might leave the Tribunals after the completion of their current assignments. This would necessitate the appointment of new judges and result in costly delays.

37. As a result of his review of the conditions of service of members of the International Court of Justice and the judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, the Secretary-General has made a number of proposals relating specifically to the conditions of service of the ad litem judges of the Tribunals. They are as follows:

(a) Extension of the entitlement to an education grant to eligible ad litem judges who have served for a continuous period of more than three years (see A/65/134, paras. 77-79);

(b) Extension of the entitlement to a relocation allowance to eligible ad litem judges who have served for a continuous period of more than three years (see A/65/134, paras. 85-87);

(c) Extension of retirement benefits to eligible ad litem judges who have served for a continuous period of more than three years (see ibid., paras. 92-99).

38. The financial implications of the above-mentioned proposals for the biennium 2010-2011, assuming that benefits would commence on 1 January 2011, are set out in section V of the Secretary-General's report and would amount to a total of $416,853 for the International Tribunal for the Former Yugoslavia ($32,100 for the education grant, $286,900 for the relocation allowance and $97,853 for pensions) and $928,500 for the International Criminal Tribunal for Rwanda ($60,800 for the education grant, $610,300 for the relocation allowance and $257,400 for pensions).

In paragraph 98 of his report, the Secretary-General states that, having carried out an actuarial analysis of the possible granting of pension rights to the currently serving ad litem judges of the Tribunals, the United Nations Joint Staff Pension Fund has estimated that the total liability of providing the same benefits to ad litem judges as those already granted to permanent judges would be $12,000,000.

39. The Advisory Committee notes from the Secretary-General's report that the primary justification for all three of the proposals described in paragraph 37 above are the successive decisions of the Security Council to extend the terms of office of the ad litem judges beyond a cumulative period of three years. Upon enquiry, the Committee was informed by the President of the International Criminal Tribunal for Rwanda that, while it had been foreseen that ad litem judges might be called on to serve for more than three years in exceptional circumstances (see para. 35 above), it could not have been foreseen that the multi-accused trials to which they were assigned would take so much longer than anticipated. The Committee was further informed that, had the ad litem judges not been authorized to stay on beyond the three-year maximum period, the cases that they were hearing would have had to start afresh with other judges, at significant cost in terms of both time and money. In view of the importance of achieving the goals of the completion strategy, extending the terms of office of the ad litem judges was the most practical and cost-effective option. The alternative would have been to increase the number of permanent judges, who would have received all the entitlements and benefits commensurate with their status, including a pension, education grant and relocation allowance. This would have been far more costly for the Tribunals.

40. **The Advisory Committee continues to hold the view that the terms of the signed letter of appointment referred to in paragraph 35 above remain binding, meaning that the extension of the terms of office of the ad litem judges does not give rise to any additional entitlements or benefits other than those which already exist. Accordingly, the Committee recommends that the General Assembly effect no changes in the current conditions of service of the ad litem judges in respect of the education grant, relocation allowance and retirement benefits.**

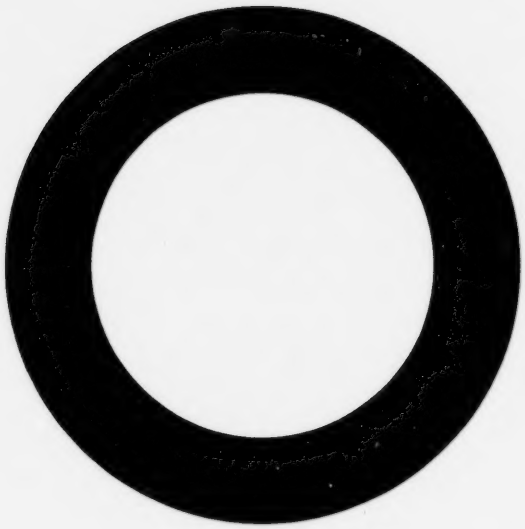
41. **Nevertheless, the Advisory Committee recognizes that the situation currently facing the two Tribunals is exceptional and unprecedented.** The Committee notes, in particular, that when the Security Council decided to establish the category of ad litem judge (in 2000 for the International Tribunal for the Former Yugoslavia and 2002 for the International Criminal Tribunal for Rwanda), the Tribunals' completion strategies did not yet exist. **In the Committee's view, the adoption of those strategies conferred even greater importance on the role of the ad litem judges, since without their contribution the work of the Tribunals would have been subject to further delays and additional costs would have been incurred.**

42. By the time their terms of office are projected to expire, 12 of the 24 ad litem judges currently serving at the two Tribunals will have served for five years or longer (see A/65/134, table immediately following para. 97). As indicated in the preceding paragraphs, the ad litem judges have played an important role in advancing the work of the Tribunals — indeed, when authorizing the extension of their terms, the Security Council expressly stated that the extension was in the greater interest of expediting the completion of the Tribunals' work — and have many of the same responsibilities as permanent judges. **Accordingly, the Advisory Committee recommends that, in order to recognize (a) the distinction that the**

Security Council intended to create between the categories of permanent and ad litem judge, and (b) the valuable contribution made to the Organization by ad litem judges, the General Assembly may wish to request the Secretary-General to present a proposal for a one-time ex gratia payment upon completion of service for those ad litem judges who have served for a continuous period of more than three years. In determining the amount of such a payment, the Secretary-General should take a prudent approach and may wish to use as a point of reference relevant comparable arrangements. The Advisory Committee stresses, however, that owing to the unique nature of this particular situation, such an arrangement, if ultimately adopted, should not constitute a precedent for any other category of judge working within the United Nations system.

IV. Next comprehensive review

43. In paragraph 101 of his report, the Secretary-General states that, should the General Assembly decide to revert to the three-year cycle for the review of the conditions of service and compensation for the members of the International Court of Justice and the judges and ad litem judges of the two Tribunals, the next comprehensive review would be undertaken by the Assembly at its sixty-eighth session, in 2013. **The Advisory Committee continues to believe that the three-year review cycle, established by the Assembly in its resolution 45/250 A, is the most appropriate one.**



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Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Elimination of racism, racial discrimination, xenophobia and related intolerance

Responsibility of States for internationally wrongful acts

Security Council
Sixty-fifth year

Letter dated 20 October 2010 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I would like to draw your attention to the remarks by President Serzh Sargsyan of the Republic of Armenia at his meeting with journalists from Armenian Diaspora on 16 October 2010. These remarks are illustrative of Armenia's unconcealed racist ideology and religious prejudices.

Thus, referring to the results of some "genetic" study, the President of the Republic of Armenia stated that "as a nation, Armenia has been around for the last 8,000 years" (see official website of the President of the Republic of Armenia, available from www.president.am/events/news/eng/?id=1252). These words of the President of the Republic of Armenia, apart from being based on this country's confused history, were in the direct context of his vision of superiority of the Armenians over other nations, including the Azerbaijanis, who were characterized by the head of the Armenian State as a "Turkic Muslim nomadic tribe".

It seems the President of the Republic of Armenia forgot what dire consequences the world suffered as a result of such "genetic studies" in the past.

Moreover, it is not the first time that Armenian high-ranking officials make statements that openly promote the outrageous ideas of ethnic differentiation, which are contrary to the fundamental principles of international law as well as to the moral and ethical principles of humanity. Thus, the public comments made by the previous President of the Republic of Armenia, Robert Kocharyan, about "ethnic incompatibility between Armenians and Azerbaijanis" have produced justifiable

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indignation within the international community. The then Secretary-General of the Council of Europe Walter Schwimmer said that "Kocharian's comment was tantamount to warmongering" and manifestation of "bellicose and hate rhetoric", while the then President of the Parliamentary Assembly of the Council of Europe Peter Schieder stated that "since its creation the Council of Europe has never heard the phrase 'ethnic incompatibility'".

Accordingly, the recent remarks by Serzh Sargsyan have become yet another solid piece of evidence testifying to the consistency of the official Yerevan line in conveying the odious ideas of racial superiority and hatred laid down in the State policy of the Republic of Armenia.

The Republic of Azerbaijan is confident that, for the purposes of lasting peace, security and stability in the South Caucasus, there is no alternative other than, by concerted efforts of the international community, to convince the Republic of Armenia to cease its racially and religiously motivated policy and practice, to put an end to the illegal occupation of the territories of the Republic of Azerbaijan, to denounce its territorial claims towards neighbouring nations and to establish civilized relations with all regional countries.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 34, 39, 66 and 75, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative